

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

AMANDA LEGG

CASE NO. 1:20-CV-02452

Plaintiff,

-vs-

JUDGE PAMELA A. BARKER

CITY OF MAPLE HEIGHTS et al.,

Defendant.

**MEMORANDUM OF OPINION AND
ORDER**

On December 8, 2020, Plaintiff Amanda Legg (“Legg”) filed a Notice of Voluntary Dismissal as to Counts IV and V, With Prejudice, in which she seeks to dismiss with prejudice all claims against Defendants City of Maple Heights and Christian Powell (together, “City Defendants”). (Doc. No. 10). For the following reasons, the Court GRANTS Legg’s Voluntary Dismissal as to Counts IV and V with prejudice and remands this case to the Court of Common Pleas of Cuyahoga County.

Legg originally filed this action on September 28, 2020 in the Court of Common Pleas of Cuyahoga County. (Doc. No. 1, ¶ 1.) In her Complaint, Legg alleges five causes of action: three state law claims against Defendant Rebecca Kaulbach (“Kaulbach”) in Counts I – III; one state law claim against the City Defendants in Count IV; and one federal claim against the City Defendants in Count V. (*Id.*; *see also* Doc. No. 1-1.) On October 29, 2020, the City Defendants removed this case to this Court based on federal question jurisdiction. (*Id.* at ¶ 2.)

Legg now seeks to voluntarily dismiss with prejudice her claims against the City Defendants pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). (Doc. No. 10.) The Court notes that, per Fed. R. Civ. P. 41(a)(1)(A)(i), a plaintiff may file a notice of voluntary dismissal “*before* the opposing party serves an answer or a motion for summary judgment.” The City Defendants filed an answer on November

25, 2020. (*See* Doc. No. 7.) Nevertheless, because Legg seeks to dismiss her claims against the City Defendants *with prejudice*, the Court will construe Legg’s Notice of Dismissal as a request for dismissal under Fed. R. Civ. P. 41(a)(2) (“an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper”). The Court grants Legg’s request and dismisses with prejudice the claims against the City Defendants, specifically Counts IV and V. *See, e.g., Crenshaw v. Portfolio Recovery Assocs., LLC.*, 433 F. Supp. 3d 1057, 1061 (W.D. Ky. 2020) (noting that it was “unclear what ‘legal prejudice’ Defendants could possibly face from” a dismissal *with prejudice*, as defendants did not face prospect of a second lawsuit).

Because the sole federal claim has been dismissed, the only remaining claims in this case are Legg’s state law claims against Kaulbach in Counts I – III. The Court lacks jurisdiction over these claims. *See, e.g., Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Therefore, the Court remands this matter back to the Court of Common Pleas of Cuyahoga County, Ohio.

Accordingly, Counts IV and V against City of Maple Heights and Powell are DISMISSED WITH PREJUDICE and City of Maple Heights and Powell are DISMISSED from this matter. It is ORDERED that this matter shall be remanded back to the Court of Common Pleas of Cuyahoga County, Ohio.

IT IS SO ORDERED.

Date: December 9, 2020

s/Pamela A. Barker
PAMELA A. BARKER
U. S. DISTRICT JUDGE